

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 632  
Title 14, California Code of Regulations  
Re: Marine Protected Areas

I. Date of Initial Statement of Reasons: March 22, 2005

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: May 5, 2005  
Location: Sacramento, CA

(b) Adoption Hearing: Date: August 19, 2005  
Location: San Luis Obispo, CA

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

State law (sections 1590 and 1591, Fish and Game Code) authorizes the Commission to designate, delete, or modify state marine managed areas (MMAs). Authorization is also provided in subsection 36725(a), Public Resources Code. In addition, in subsection 36725(e), Public Resources Code, the Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

The existing regulation of Section 632, Title 14, California Code of Regulations (CCR), defines State Marine Parks and State Marine Conservation Areas and provides information on authorized uses within those areas. The classification of those areas is in accordance with the Marine Managed Areas Improvement Act (MMAIA) commencing with Section 36600, Public Resources Code.

Nine areas originally designated by the Legislature as marine life refuges were reclassified in 2004 as State Marine Parks under the authority of the MMAIA. Six of these areas were historically productive for the commercial spiny lobster fishery and lobster take has occurred in these areas since establishment as marine life refuges. The six areas are: Robert E. Badham State Marine Park, Irvine Coast State Marine Park, Laguna Beach State Marine Park, South Laguna Beach State Marine Park, Niguel State Marine Park, and Doheny State Marine Park. With the designation of these six areas as State Marine Parks, there is now a discrepancy between what has been a long-standing use in those areas and the type of use provided for under the state marine park designation as defined in the MMAIA. The proposed regulation change would modify the status of

these six areas to State Marine Conservation Areas to allow access for the commercial lobster industry.

State law (sections 8254 and 8259, Fish and Game Code) authorizes the Commission to set conditions for the commercial lobster fishery. The proposed regulatory change will not change any conditions for that fishery or affect the status of the spiny lobster stocks.

In addition, Doheny State Marine Park's name is proposed to change to Doheny Beach State Marine Conservation Area to differentiate it from the existing Doheny State Marine Conservation Area.

(b) Authority and Reference for Regulation:

Authority: Sections 1590, 1591, 2860 and 2861(c), Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

Reference: Sections 8254, 8259 and 8500, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Improving California's System of Marine Managed Areas; Final Report of the State Interagency Marine Managed Areas Workgroup. Resources Agency of California. January 15, 2000.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

None

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

The no change alternative would leave existing regulations for these MPAs in place. The historical use of these six areas by commercial spiny lobster fishermen would cease.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative

considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed action serves to clarify and sanction historical commercial and recreational areas and practices to abate economic impacts and financial hardship to individuals and businesses.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Other Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

## Informative Digest (Policy Statement Overview)

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